

AMENDED IN ASSEMBLY JANUARY 13, 2016

AMENDED IN ASSEMBLY JANUARY 4, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 821

Introduced by Assembly Member Gipson

February 26, 2015

An act to amend Section 6479.3 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 821, as amended, Gipson. Sales and use taxes: administration: ~~payments.~~ *payments: dispensaries.*

The Sales and Use Tax Law, which is administered by the State Board of Equalization, requires any person whose estimated tax liability averages \$10,000 or more per month to remit amounts due by electronic funds transfer, as provided. *The Medical Marijuana Regulation and Safety Act provides for the licensure and regulation of medical marijuana.*

~~This bill would authorize the board to allow persons to remit amounts due by other than an electronic funds transfer if the board deems it necessary to facilitate collection of amounts due.~~ *authorize, before January 1, 2022, a person issued a seller's permit for a place of business that is a dispensary, as defined in Medical Marijuana Regulation and Safety Act, to remit amounts due for retail sales at the dispensary by a means other than electronic funds transfer.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 6479.3 of the Revenue and Taxation Code is amended to read:

6479.3. (a) Except as provided in subdivision (k), any person whose estimated tax liability under this part averages ten thousand dollars (\$10,000) or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by an electronic funds transfer under procedures prescribed by the board. Any person who collects use tax on a voluntary basis is not required to remit amounts due by electronic funds transfer.

(b) Any person whose estimated tax liability under this part averages less than ten thousand dollars (\$10,000) per month or any person who voluntarily collects use tax may elect to remit amounts due by electronic funds transfer with the approval of the board.

(c) Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfer in compliance with the due dates set forth in Article 1 (commencing with Section 6451) and Article 1.1 (commencing with Section 6470). Payment is deemed complete on the date the electronic funds transfer is initiated, if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

(d) Any person remitting taxes by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed by the board. Any person who fails to timely file the required return shall pay a penalty of 10 percent of the amount of taxes, exclusive of prepayments, with respect to the period for which the return is required.

(e) (1) Except as provided in paragraph (2), any person required to remit taxes pursuant to this article who remits those taxes by means other than appropriate electronic funds transfer shall pay a penalty of 10 percent of the taxes incorrectly remitted.

(2) A person required to remit prepayments pursuant to this article who remits a prepayment by means other than an appropriate

1 electronic funds transfer shall pay a penalty of 6 percent of the
2 prepayment amount incorrectly remitted.

3 (f) Except as provided in Sections 6476 and 6477, any person
4 who fails to pay any tax to the state or any amount of tax required
5 to be collected and paid to the state, except amounts of
6 determinations made by the board under Article 2 (commencing
7 with Section 6481) or Article 3 (commencing with Section 6511),
8 within the time required shall pay a penalty of 10 percent of the
9 tax or amount of tax, in addition to the tax or amount of tax, plus
10 interest at the modified adjusted rate per month, or fraction thereof,
11 established pursuant to Section 6591.5, from the date on which
12 the tax or the amount of tax required to be collected became due
13 and payable to the state until the date of payment.

14 (g) In determining whether a person's estimated tax liability
15 averages ten thousand dollars (\$10,000) or more per month, the
16 board may consider tax returns filed pursuant to this part and any
17 other information in the board's possession.

18 (h) Except as provided in subdivision (i), the penalties imposed
19 by subdivisions (d), (e), and (f) shall be limited to a maximum of
20 10 percent of the taxes due, exclusive of prepayments, for any one
21 return. Any person remitting taxes by electronic funds transfer
22 shall be subject to the penalties under this section and not Section
23 6591.

24 (i) The penalties imposed with respect to paragraph (2) of
25 subdivision (e) and Sections 6476 and 6477 shall be limited to a
26 maximum of 6 percent of the prepayment amount.

27 (j) The board shall promulgate regulations pursuant to Chapter
28 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
29 Title 2 of the Government Code for purposes of implementing this
30 section.

31 ~~(k) If the board deems it necessary to facilitate collection of~~
32 ~~amounts due, the board may allow persons to remit amounts due~~
33 ~~by other than an electronic funds transfer.~~

34 (k) *Before January 1, 2022, a person issued a seller's permit*
35 *for a place of business that is a dispensary, as defined in*
36 *subdivision (n) of Section 19300.5 of the Business and Professions*
37 *Code, may remit amounts due for retail sales at the dispensary by*
38 *a means other than electronic funds transfer.*

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